IN THE SUPREME COURT OF THE STATE OF DELAWARE

LA MAR GUNN,	§	
	§	No. 475, 2011
Plaintiff Below-Appellant,	§	
	§	
	§	Court Below- Court of Chancery
v.	§	of the State of Delaware
	§	C.A. No. 5917
U.S. BANK NATIONAL ASSOCIATION and EQCC HOME EQUITY LOAN TRUST 1998-2,	§	
	§	
	§	
Defendants Below-Appellees.	§	

Submitted: November 10, 2011
Decided: December 1, 2011

Before **HOLLAND**, **JACOBS** and **RIDGELY**, Justices.

O R D E R

This 1st day of December 2011, upon consideration of the appellant's opening brief and the appellee's motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The plaintiff-appellant, La Mar Gunn, filed an appeal from the Court of Chancery's August 18, 2011 order affirming the Master in Chancery's June 2, 2011 Final Report. The defendants-appellees, U.S. Bank National Association and EQCC Home Equity Loan Trust 1998-2 (collectively, the "Bank"), have moved to affirm the judgment of the Court

of Chancery on the ground that it is manifest on the face of the opening brief that the appeal is without merit.[1] We agree and affirm.[2]

(2) The record before us reflects that the original owners of a property located at 201 Cornwell Drive, Bear, Delaware (the "Property") took out a first mortgage from EquiCredit Corporation in 1997. In 1998, they took out a second mortgage from a different lender. In 2001, they defaulted on the first mortgage. EquiCredit assigned its interest in the first mortgage to the Bank. Thereafter, the Bank foreclosed and a sheriff's sale was scheduled. However, the sale was stayed when the owners of the Property filed for bankruptcy. In 2003, Gunn, despite being aware that the first mortgage was in default, purchased both the second mortgage and the Property by quitclaim deed, and then proceeded to make improvements on the Property.

(3) In 2004, the bankruptcy stay was lifted. In November of 2004, after the Bank again filed a foreclosure action in the Superior Court and the sheriff's sale again was scheduled, Gunn intervened in the action and moved to stay, claiming that the Bank did not have standing to bring the foreclosure

[1] Supr. Ct. R. 25(a).

[2] In his Final Report, the Master in Chancery reserved decision on the Bank's request for attorney's fees. By letter dated June 15, 2011, the Bank requested that its claim be preserved pending review by the Court of Chancery of Gunn's exceptions to the Final Report. The Court of Chancery docket reflects that the Bank did not raise its claim for attorney's fees in its opening brief addressing Gunn's exceptions, thereby waiving the claim.

action and that the assignments transferring the first mortgage to the Bank were invalid. In 2008, the Superior Court finally permitted the sheriff's sale to proceed and Gunn filed an appeal in this Court. The matter was remanded to the Superior Court so that Gunn could conduct further discovery regarding his claims.[3] On remand, after Gunn had failed to conduct any discovery, the Superior Court confirmed that the Bank was the real party in interest and that the sheriff's sale was proper. This Court affirmed the Superior Court's judgment.[4]

(4) Gunn thereafter filed a complaint alleging unjust enrichment in the Court of Chancery against the Bank, claiming that the Bank did not have standing to bring the foreclosure action and that the assignments transferring the mortgage to the Bank were invalid. The Court of Chancery dismissed Gunn's claims on the ground that they had previously been decided against him. On appeal from the Court of Chancery's dismissal of his complaint, Gunn advances several claims of error, which may fairly be summarized as follows: a) the Bank did not have standing to bring the foreclosure action; and b) the assignments transferring the mortgage to the Bank were invalid.

[3] *Gunn v. U.S. Bank National Ass'n*, Del. Supr., No. 102, 2009, Ridgely, J. (December 1, 2009).
[4] *Gunn v. U.S. Bank National Ass'n*, Del. Supr., No. 102, 2009, Ridgely, J. (June 30, 2010).

(5) The doctrines of *res judicata* and collateral estoppel are well-established. The *res judicata* doctrine prevents a party from bringing a second lawsuit based on the same cause of action after a judgment on that claim has been rendered in a prior lawsuit involving the same parties.[5] Similarly, where an issue of fact essential to a decision has been previously litigated and decided by way of a valid and final judgment, the doctrine of collateral estoppel precludes re-litigation of that issue in a second lawsuit against a party in the first case on a different cause of action.[6] We conclude that the Court of Chancery properly dismissed Gunn's claims, because those claims were precluded under the doctrines of *res judicata* and collateral estoppel.

(6) It is manifest on the face of the opening brief that this appeal is without merit because the issues presented on appeal are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, there was no abuse of discretion.

---

[5] *Oakes v. Oakes*, Del. Supr., No. 709, 2010, Jacobs, J. (Feb. 16, 2011) (citing *M.G. Bancorporation, Inc. v. LeBeau*, 737 A.2d 513, 520 (Del. 1999)).
[6] Id. (citing *Messick v. Star Enter.*, 655 A.2d 1209, 1211 (Del. 1995)).

NOW, THEREFORE, IT IS ORDERED that the motion to affirm is GRANTED. The judgment of the Court of Chancery is AFFIRMED.

BY THE COURT:

/s Jack B. Jacobs
Justice